



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SK

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/428,918	04/25/95	REAVEN	AT 211,300

PM82/1106

SCOTT W KELLEY
KELLY BAUERSFELD AND LOWRY
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS CA 91367

ROWAN, K EXAMINER

ART UNIT	PAPER NUMBER
3543	

DATE MAILED:

11/06/00

35

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/428,918

Applicant(s)
REAVER et al.

Examiner
Kurt Rowan

Group Art Unit
3643



☒ Responsive to communication(s) filed on Aug 11, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-10 and 12-20 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 9, 10, and 13-20 is/are allowed.

☒ Claim(s) 1-5 and 7 is/are rejected.

☒ Claim(s) 6, 8, and 12 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Reissue Applications

Claim Objections

1. Claim 12 is objected to because of the following informalities: Claim 12 depends from canceled claim 11. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liebling in view of Chapman.

The patents to Liebling and Chapman show traps with handles. Liebling shows a handle 7, a housing 2 attached to the front end of the handle and having a large aperture. It is not clear if the housing is rigid or not since as shown in Fig. 3, the housing does not appear to hold its own shape and thus would not be rigid. Liebling shows a track means 11 and a planar closure member 10. Chapman shows a fly destroyer with a rigid housing 12 having a frame 14 including upper walls or side walls at 13. In reference to claim 1, it would have been obvious to provide Liebling with

a rigid housing as shown by Chapman since merely substitution of one equivalent housing for another is contemplated. In reference to claim 2, Liebling does not show a rectangular cross-sectional configuration. Liebling shows a circular wire with two strands being the handle. However, the configuration of the handle is a matter of design choice to be determined through routine experimentation since the function is the same and no showing of unexpected results was made. In reference to claim 3, Liebling shows two parallel channels 11 that define two sides of the compartment aperture with the channels arranged to support the front portion of the closure member throughout its range of motion. In reference to claims 4-5, Liebling shows a front channel 11 that acts as a housing bumper means for enclosing a front of the track to limit the movement of the closure member. In reference to claim 7, Liebling shows a transparent member with a plurality of small apertures.

Allowable Subject Matter

4. Claims 9-10, 13, 14-20 are allowable over the art of record. Claim 12 would be allowable if amended to depend from claim 9.

5. Claims 6, 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and assuming that the rejection under 35 USC 251 of a defective reissue oath is overcome.

Response to Arguments

6. Applicant's arguments filed Aug. 11, 2000 have been fully considered but they are not persuasive. Applicant's response overcomes the rejection under 35 USC 251 based on a defective reissue declaration. In regard to Liebling and Chapman, both are traps with handles.

Applicant argues that Chapman shows a fly destroyer and that in regard to claim 1, that Chapman does not disclose a rigid housing. However, due to frame 14, the housing holds its shape and therefor can be considered as rigid. Chapman is not cited to show a track means or a closure member or a rear slide clamp means. Liebling shows a track means 11 and a closure member 10 and a rear slide clamp means such as plate 6, rod 13 and brace 15. As to the combination of Liebling as modified by Chapman, while the references are arguably non-analogous art, they are faced with the same problems such as retaining objects in a mesh container and are therefor properly combinable.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KURT ROWAN** whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


KURT ROWAN

PRIMARY EXAMINER

ART UNIT 3643

Nov 6, 2000